

Decision 05-05-005 May 5, 2005

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation whether Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and their respective holding companies, PG&E Corporation, Edison International, and Sempra Energy, respondents, have violated relevant statutes and Commission decisions, and whether changes should be made to rules, orders, and conditions pertaining to respondents' holding company system.

Investigation 01-04-002  
(Filed April 3, 2001)

In the Matter of the Application of Southern California Edison Company (U 338 E) for authorization to implement a plan of reorganization which will result in a holding company structure.

Application 87-05-007  
(Filed May 6, 1987)

In the Matter of the Application of San Diego Gas & Electric Company (U 902 M) for Authorization to Implement a Plan of Reorganization which will result in a Holding Company Structure.

Application 94-11-013  
(Filed November 7, 1994)

In the Matter of the Application of Pacific Gas and Electric Company (U 39 M) for Authorization to Implement a Plan of Reorganization which will result in a Holding Company Structure.

Application 95-10-024  
(Filed October 20, 1995)

Joint Application of Pacific Enterprises, Enova Corporation, Mineral Energy Company, B Mineral Energy Sub and G Mineral Energy Sub for Approval of a Plan of Merger of Pacific Enterprises and Enova Corporation with and Into B Mineral Energy Sub (Newco Pacific Sub) and G Mineral Energy Sub (Newco Enova Sub), the Wholly Owned Subsidiaries of a Newly Created Holding Company, Mineral Energy Company.

Application 96-10-038  
(Filed October 30, 1996)

### **OPINION CLOSING PROCEEDINGS**

This decision closes these proceedings on the ground that we do not find – and no party has indicated – that any issue pending in the proceedings requires current resolution.

The Commission instituted Rulemaking (R.) 01-04-002<sup>1</sup> during the 2001 energy crisis to investigate whether the holding companies of the three large California electric utilities<sup>2</sup> violated the conditions we imposed when we

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<sup>1</sup> We opened other proceedings captioned above to allow us, if we chose, to revise the original conditions we imposed on the utilities at the formation of their holding company structure.

<sup>2</sup> The utilities and their holding companies are utilities Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), and their parent holding companies, PG&E Corporation

*Footnote continued on next page*

authorized the formation of the holding companies; to investigate whether changes, including changes in the holding company conditions, should be made going forward; and to determine, should we find that violations occurred, what remedies, if any, should be imposed.

These cases have been dormant at the Commission for some time. Part of that dormancy is due to an appeal by respondents of certain orders entered in the proceedings. The state Court of Appeal resolved those appeals on May 21, 2004 and remanded the cases to the Commission for further proceedings.<sup>3</sup>

On February 11, 2005, the assigned Administrative Law Judge (ALJ) sent a ruling to the parties on the service list inquiring whether the proceedings should remain open, and if so, the issues to be decided. The ALJ noted the passage of time since the energy crisis and the period these proceedings were active. No party filed comments on the ruling, either in favor of closure or against it.

We have considered the issues raised in the proceedings and find that they are no longer of current concern. Nor does the Court of Appeal's decision require that the proceeding continue. We have discretion not to pursue the issue since the court simply determined the issue was not ripe for review, but did not require that we continue our investigation. We opt not to exercise that discretion at this time. We also opt not to proceed with the other issues in the proceeding at this time, including, but not limited to, whether we should amend the holding company conditions going forward, or whether the holding companies' dividend policies or ring fencing arrangements violated their holding company conditions.

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(PG&E Corp.), Edison International (EIX), and Sempra Energy (Sempra) (collectively, respondents).

<sup>3</sup> *PG&E Corp. v. Public Utilities Comm.*, 118 Cal. App. 4<sup>th</sup> 1174 (2004).

Because we never reached some of the issues the proceeding raises – such as the appropriateness of the large utilities’ holding company structure and dividend policies – this decision does not pass judgment on those issues or rule out investigation of them in the future. However, we do not believe any of the issues raised in the investigation warrant current action by the Commission. It is therefore appropriate to close the proceedings at this time.

### **Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Sarah R. Thomas is the assigned Administrative Law Judge in these proceedings.

### **Comments on Draft Decision**

The draft decision of the Administrative Law in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. No party filed comment. Thus, we close the proceedings.

### **Finding of Fact**

No party responded to the ALJ’s February 11, 2005 ruling asking any party to these proceedings that believes they should remain open to file comments listing the matters that remain to be decided, and explaining why they must be resolved here rather than in another forum.

### **Conclusion of Law**

These proceedings should be closed.

**O R D E R**

**IT IS ORDERED** that Investigation 01-04-002, Application (A.) 87-05-007 and A.94-11-013 should be closed.

This order is effective today.

Dated May 5, 2005, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
DIAN M. GRUENEICH  
Commissioners

Comr. Bohn recused himself  
from this agenda item and was not  
part of the quorum in its consideration.